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INFORMATION

For the Master of STAIR.



HIS Majesties Commissioner having thought fit to Communicat to the Parliament, the Report; with the Evidences and Instructions taken and adduced before the Commission of *Glenco*; and the Master of *Stair*'s Freinds conceiving that he is mightily Prejudged by that Report, which notices particular Sentences or Periods of certain Letters of His, suppressing or not expressing other Material Periods of the same Letters, and from whence Consequences are drawn, which cannot follow upon a due consideration of the whole.

The Masters Friends had no Opportunity to see these Letters, or know the Tenor of them, till they were read in Parliament, and then being satisfied that they do not answer to the Rumors and Commentars that are spread abroad upon them, it was earnestly desired that the Letters might be Printed for the Masters Vindication, which was not obtained, nor doubles allowed to be taken; But the Grounds of the Report only allowed to be seen in the Clerks Hands.

There has been so much discourse about *Glenco*, that little needs to be said to state the Case: Its known they were very ill Men, Rebels, Papists, Robbers and Theivs, which did not justify any Inhumanity in their Execution, but did expose them more to legal Severity than other Subjects.

His Majesty being justly displeased, that many Rebels had dispised two Indemnities, did resolve in the next place, to apply the severity of the Law, and none were found more fit to fall under it than those of *Glenco*.

To that end His Majestie granted Instructions to Sir *Thomas Livingston*, on the 11th. January 1692, whereof the first runs in these Terms, "You are hereby Ordered and Authorized to march our Troops which are now posted at *Inverlochie* and *Inverness*, to act against these *High land* Rebels, who have not taken the benefit of our Indemnity, by Fire and Sword, and all manner of Hostility, to burn their Houses, seize or destroy their Goods, Cattle, Plenishing and Cloaths, and to cut off the Men: And the fourth Article bears, That the Rebels may not think themselves absolutely desperat, We allow you, to own Powers, to give Terms and Quarters; But We are so convinced of the necessity of Severity, and that they cannot be reclaimed, That We will not allow you, to give any other Terms to Chiffrans, Heretors or Leaders, but to be Prisoners of War, whereby their Lives are saved; But for all other things they must surrender on Mercy, and take the Oath of Allegiance. And the fourth Article of additional Instruction the 16th. of January 1692 bears, "If *McKean* of *Glenco*, and his Tribe can be well separated from the rest, it will be a proper Vindication of the Publick Justice to extirpat that Sect of Theives.

The *Highland* Rebels, who had not accepted of the Indemnity, might lawfully have been cut off without Quarters, but His Majesty mollifies that Rigour, by allowing Sir *Thomas Livingston* to give Terms and Quarters, yet *Glenco* was by these Orders to ly nearest to the just Vengeance of the Law.

Old *McKean* of *Glenco*, did not take the Oath in due time, but six days after, he prevailed with *Arkinglaff* to Administer the same, which *Arkinglaff* did, and desired that his Case might be represented to the Privy Council. But the rest of his Clan, and Followers did not take the Oaths at all, yet upon his taking the Oath, he and his People did look upon themselves as secure, and *Glenlyon*, and his Company was Lodged among them in a peaceable manner, from the 1. to the 13. of February, and it appears against the Rules of Hospitality and Humanity, that he with his Company, and others, did Barbarously Murder, five and Twenty Men, and a Woman, and particularly his own Land-lord, and many aggravating Circumstances, do clearly appear, particularly that men of great Age, and a Boy of Fourteen years were cut off, and that Captain *Drummond* was very forward in that cruel Execution.

The Parliament has considered his Majesties Instructions, and the Execution, and have voted that the Instructions contain a Warrant for Mercy to all who offer to take the Oath of Allegiance, and come in upon Mercy without exception, though the Dyet prefixed was elapsed; and that the same contained no Warrant for the Execution of the *Glenco* men, made in February thereafter.

It was also Voted, that the said Execution, as it was represented in Parliament, was a Murder.

It was further Moved, That the Parliament should proceed to Consider the Persons guilty of the said Murder, and the Report does load the Master of *Stair*, as if his Letters had given the Occasion of it.

In the first place, the Report of the Commission is noways to be regarded to Influence any Member of Parliament, being privately done, without access allowed to any Party that might be Interested, but the Grounds and Instructions upon which it is Founded, are only to be considered.

If the Parliament shal proceed to Consider the Instructions and Probation adduced, the first and most Natural Point to be considered, is, who were the Executors, for if these Executors had no sufficient Warrant for what they did, or if they did that which no Warrant could Authorize, then certainly; as they were the Executors, so they ly nearest to, and most justly under the Censure of the Nation. And the Probation as re-presented to the Parliament bears, that *Glenlyon*, Captain *Drummond*, Lieutenant *Lindsay*, and others being most peaceably Lodged and Quartered among the *Glenco* men,

men, from the first of *February*; and being civilly received and entertained for the space of 13 days; they got access in a friendly manner, to come in to old *Glencoe's* Chamber, where he lay and killed him treacherously behind his back, and that *Glenlyon's* Land-lord was killed by him; and that old men superannuated, two Children, and a Woman were killed.

This Execution was so Barbarous, that no Warrant could authorize it, the Laws of Humanity being the strongest of all Tyes, and whatever Obligations may ly upon Soldiers under Pay to execute Commands without disputing, yet they are rather obliged to give up their Commissions than to fly in the face of Nature. 2. Though the Command of Superior Officers be very absolute, yet no Command against the Laws of Nature are binding, so that a Soldier retaining his Commission, ought to refuse to execute any Barbarity, as if a Soldier should be commanded to shoot a Man passing by inoffensively upon the Street, no such Command would exempt him from the Punishment of Murder. 3. There is no pretence of any warrant for killing of Women or Children under age, neither did *Glenlyon* so much as ever remonstrat to the giver of the Order, that he and his men were under the confidence of Hospitality, which the giver of the Order might not have considered so well, as he who received it was bound to do before the Execution.

The Parliament having found the Kings Order legal, and the Execution illegal, so soon as the Executors are found to have exceeded either their Warrant or the Laws of Humanity, the Work and Design of the Parliament is done.

But because the Master of *Stair* hath been named in the Matter, for his Vindication, it is to be considered. First, That there is a great difference in the Circumstances of Affairs betwixt the time and the Supposition upon which he wrote, and what fell out about the same time, or shortly thereafter.

Glencoe and his Son had been obstinate Rebels, forefaulted in the Parliament 1690, irreconcilable to the Government, he himself a Murderer, all his Tribe hereditary Thieves, he and they had slighted two gracious Indemnities, the King was resolved to make an Example of Justice, as many had been made of his Mercy; And it was thought that the same could be no where exercised more fitly to the Terror of others, and two of the Master of *Stairs* Letters, the first and third of *December* 1691, do expostulate that these Men were deluded by hopes of Better Terms and longer Dyets, whereby they would fall into the Net, which was a sufficient Warning to beware, yet they did not imbrace the Indemnity.

2. All the Secretaries Letters were wrote upon the supposition that they were still obstinate and irreconcilable Rebels, and no man can reasonably say, that Rebels in such Circumstances might not be cut off, for an Example of publick Justice, neither was that Severity so much the Secretaries proper Sentiment, as that his Endeavour to bring in the Highlanders without Blood was misconstrued as flowing from Good-will and tenderness to the *Jacobite* Party, whom he would not have disabled from their old Interprizes, and it was loudly discoursed at that time, that this Opportunity should be taken to rid the Nation of the Barbarous Highlanders.

The Masters Project not taking full Effect; and many rejecting the Offered Mercy, such as obstructed the Negotiation were ready to mis-represent his Measures to the King; and there being Resolution to make an Example of Severity on these very People, the Mr. was obliged to enter in it the more frankly because the Persons to whom the Letters were directed, and had the Trust of Execution, had not been favourable to that Negotiation: and if he had appeared indifferent in that matter, he might have lyen under greater Censure another way.

3. As the Master did not know that *Glencoe* had taken the Oathes, even after the Dyet elapsed, but looked upon all the Tribe as in open Rebellion, so much less did he know that the manner of Execution would be by a man lodged as a Friend thirteen Nights in their Bosom, or that they would kill Women or Children, in which the Inhumanity doth really consist, for suppose the case that they all had been setting out obstinate Rebels, and never taken the Oathes, nor so much as offered Submission, and that in such Circumstances, Military Forces had gone in and destroyed them all, no man can say there was any thing illegal or cruel in that, and it was the Opinion of all who advised the King, and it was His Majesties Pleasure it should be so, and the Variation of Circumstances without the Masters Knowledge, did not alter the case as to him.

The Circumstances that altered were two, the one, that old *Glencoe* took the Oath after the Dyet, which should have procured him Mercy, and next the manner of Execution by Souldiers lodged in the Place, both were altogether unknown to the Master.

No Body loads the Master with the last and great Circumstance, which relates to all the Persons slain: but the other Circumstance of Old *Glencoes* having taken the Oath, is alledged to have been known to the Master, and the Report of the Commission is not positive in that Point, but it says that it appears the same was known.

To this its answered. 1. That if it can be instructed, that the Master did know of Old *Glencoes* taking the Oath, whether legally or not legally at the time of writing any of the Letters preceeding the Slaughter, whereof the last is dated the 30. of *Jan.* 1692. in that case the Master would be willing to forfeit his Reputation, Life, and Fortune: so that it is still positively and peremptorly asserted, that the Master was wholly ignorant of that Circumstance.

The Evidence upon which the Report of the Masters Knowledge of that Circumstance proceeds, is the same Letter of the thirtieth of *January*, bearing, *I am Glad Glencoe did not come in within the time prescribed, &c.* from whence it is interred, that he knew of *Glencoes* coming in after the time elapsed, which is a very wide Consequence, First, The embracing the Indemnity, supposes the coming

ing in; in due time, and the Indemnity being in his view, he had no eye, nor Consideration of what followed.

2. That Letter could never be the Warrant of Sir Thomas Livingstons Order, upon which the Execution followed, because Sir Thomas his Order is upon the 23 of the said Moneth, seven days preceding.

3. His Letter of the same date direct to Collonel Hill, bears in the beginning, that he doubted not the Collonel would make the best use of the present Circumstance, and where Glencoe is mentioned, it is said he is fallen in the Mercy of the Law, and shortly after he adds these false People will do nothing, but as they see you in condition to do with them, by the first and last of which Clauses, which afterwards will be more largely related, it is evident that the Master leaves all to the Collonells Management, to whom the Order was also directed; and by the middle Clause that Glencoe was still considered as in the mercy of Law, which clears that the Master did not understand him to be under any Security by taking the Oaths, neither can these Letters be reckoned peremptor, because all is thereby left to the Discretion and Management of the Persons to whom they are directed.

And whereas it hath been further said, that whether the Master knew of Glencoes taking the Oaths or not, yet his Letters are more peremptor than the Kings Instructions, in so far as the Kings Instructions are qualified, and bear power to give Terms, and several of the Masters Letters are peremptor for the Destruction of Glencoe, without mentioning the Quality which the Instructions do contain, and even the most peremptor Instruction against Glencoe, bearing, that if they could be well separated from the rest, it would be a proper Vindication of publick Justice to extirpat that Sect of Thieves, does not take off the Quality, that they might be received upon Mercy.

It is answered, 1. Though the Masters Letters were more Peremptor than the Kings Instructions; yet if they were within the Terms, and not exceeding the Rigours which the Law allows, the Master could never be quarreled upon these; for either they were to be considered as writ by the Master of Stair a privat Person, in which case they could afford no Authority, or Warrant to Impair or Extend the Kings Instructions: and these to whom the Instructions were directed, were bound to obey them, and not privat Letters; Or if the Masters Letters were considered as flowing from the Secretary of State, the Kings Authority is presumed to be there. And none can quarrel any Expression in these Letters, except the King himself, unless the Kings Authority were used to a thing in itself unlawful, which could not be pretended; in so far as the Glencoe men being understood to be forfeited obstinat Rebels, they were absolutely in the mercy of Law to be Cut off, or destroyed by Military Execution, without any mercy.

2. *Et separatim*, It is positively asserted, that there is not one Circumstance in the Masters Letters beyond the Kings Instructions, but all the Letters do bear Qualities in them, whereby they are to be construed suitable and agreeable to the Instructions in all Points.

For clearing of this Point, its to be considered. 1. That nothing can be founded upon Letters posterior to the Fact, whereof there are two; One of which bears, that the Execution was neither so full nor so fair, as it might have been, which blames and disapproves of the manner. And any Expression of these Letters that may be Interpreted a justifying of Severity, is rather to be considered a covering of an Error and Escape, than an Approbation of what had past, and many things will be excused when they are done, that a reasonable man would not advise nor practise; neither can it be supposed, that the worst of the Circumstances were known, such as the Murder under Trust.

2. Nothing can be founded on the two Letters the thirtieth of January, though these do precede the Execution; because no Direction or Instruction followed upon the Letters of the 30th. In so far as Lieutenant Collonel Hamiltons Orders, both from Sir Thomas & Collonel Hill were not only before these Orders could come to hand, but dated the 23d. of the same month of January, seven days before the Masters Letter, and there was no posterior Orders directed upon Receipt of them, neither did these Letters exceed the Kings Warrant; in as far as they bear still a Reference to the prudence and management of these to whom they are directed. And the Letter to Sir Thomas, contains a Clause after several particulars mentioned, *viz. In these you can only be advised, but must be left to prosecute them as the State of Affairs will allow*. And thereafter, desires him to communicate these Particulars to Collonel Hill, and that he would not be too far engaged with his Neighbours in Treaty, before he had heard of the Surrender of these two places, which were forgot in the Instructions: and the Words in relation to Glencoe, are not Commands but Advices. First, he says *I hope what is done may be in earnest*: Again, *I think to herry their Cattle and burn their Houses, would render them desperat Lawless men to Rob their Neighbours*: But *I Believe, ye will be satisfied*. It were an advantage to the Nation they were rooted out, which are not words of Command or Direction, nor in the least excluding the prudent Management which the King reserved to Sir Thomas, and they are not so peremptor as the Words of the Instruction, bearing, That if they could be separated from the rest, they should be Extirpated.

In like manner, the Masters Letter of the same Date to Collonel Hill, bears, *I doubt not you will as the Circumstances will allow, make the best use of them that may be*; *Therefore at a Distance, you cannot receive further Directions, than what you have under the Kings Hand*; And thereafter he says, when any thing concerning Glencoe is resolved, let it be secret and sudden: better not to meddle with them, than not do it to purpose, to cut off that Nest of Robbers who have fallen in the mercy of the Law. And thereafter he says, These false people will do nothing but as they see you in Condition to do with them. And thereafter he says, they play fast and loose, as they find themselves pressed there-fore

fore all I can say, is better get their Houses and their Strength, than all Assurance we can have from them; Deal with them as you find their Consternation and your Circumstances allows; but by all means be quick, that nothing remain till the Summer that they can have help.

The whole Tenor of these Letters clear, that the Master was far from designing to restrain Sir Thomas or the Collonel from the management of the Affair committed to their care, or excluding the Rebels from the benefit of His Majesties Bounty allowed to be extended to them, in case of their offering Submission to Sir Thomas.

The next Point to be cleared is, That none of the Letters preceeding the Date of Sir Thomas's Order, did exceed the Terms of Law, or the Kings Instructions. This doth appear from the Terms of the Letters which the Master wished to have had Printed. The preceeding Letters are seven in number, whereof the first two Direct to Lieutenant Collonel Hamilton on the 1st. and 3d. of December 1691, contain nothing but Expostulations. That these unhappy men deluded themselves with the hopes of better Terms and new Dyets, and that they would get off without taking the Oaths, and foretelling that the *Mudonalds* would fall in the Net, and in the mercy of Law, and blaming such as did Obstruct their Submissions, and no bad Commentar can be made upon these.

The next Letter is of the 7th of January direct to Sir Thomas Livingstone, when the dyet was elapsed, and advertising him that the Rebels would be prosecuted, and that powers would be given to him, which he assures would be full enough, and hopes that the Souldiers will not trouble the Government with Prisoners, and that the fighting of mercy, and depending upon Forraign assistance will justify all the severity can be used against them, and adds I know well, they are cheated with the hopes of prolonging the dyet, and having the benefit of Indemnity without Oaths, and more money, but in all these they are deluded, and we must make sure of them before they can get these Supplies from France they depend on, In all this there is nothing amiss but an evidence of great Loyalty, and affection, and a just zeal against obstinate Rebels, who every season put the Nation under the hazard of an Invasion by a cruel and powerful Enemy.

The next Letter is the 9th direct to Sir Thomas, and to the same purpose in which he says, I do not see how new Treaties and Terms can be entred into, which can only be to preserve them till help be had, Then he adds towards the end, I think it just that powers be lodged with you, who I know will use them discreetly for the Common-well, and adds that if they got not encouragement from others than the Master or Sir Thomas, not one man would have stood out.

This Letter relates to Instructions to be made, and promised that Powers would be Lodged with Sir Thomas, which was accordingly done by the fourth Article of the first Instruction.

The next Letter is of the 11th. of January, of the Date of the first Instructions, This is one of the chief Letters founded upon in the Report which doth only notice this Clause that the Earl of Argyle hath just now told me that *Glencoe* had not taken the Oath at which I rejoyce; It's a great work of Charity to be exact in Rooting out that Damnable Sect the worst in all the *High-lands*: but the Commission takes no notice of the other Clauses of the same Letter which Demonstratively clear that nothing of that Letter was design'd to Cut off Sir Thomas's power to manage according to discretion in as far as it bears, I have sent you the King's Instructions *Super* and subscribed by himself, I am confident you will see there are full Powers given you in very plain Terms, and yet the methods left very much to your own Discretion & thereafter another Clause bears, it is necessary you own that you have Power, and then proceeds to advise how he should Treat and Manage these Powers.

There remains only two Letters dated the 16th. which are of the date of the last Instructions, bearing that it *Glencoe* could be well separat from the rest, it would be a proper Vindication of Justice to extirpat that Sect; The words chiefly noticed by the Commission in that Letter are these, *I intreat you that for a just Vengeance and publick advantage, the Thieving Tribe of Glencoe may be Rooted out to purpose*: But still the Tenor of the Letter and Clause clearing the Design are Omitted, neither is that very Clause severer, than the Terms of the Instructions, *to extirpat that Sect of Thieves for the Vindication of publick Justice*, but surder to testify that the said Clause did not exclud mercy and power to manage according to discretion; The Letter to Sir Thomas Livingstone of that date is relative to the Additional Instructions in the beginning of it. 2 It bears, the King doth not at all incline to receive any after the Term but on Mercy, nor will he alter the Terms of the Indemnity, for that is to make people always Dodge & Hope for better Terms than these who obeyed and came in within the day, therefore, that is left intirely to your discretion according to Circumstances, but by no means leave any standing that may Incourage or invite the French to send thither Succours in the Spring, and in his Letter of the same date to Colonel Hill, he likewise relates to the Instructions directed both to him and to Sir Thomas; Then adds *I know your Sentiments will be the same, but none knows what power the King hath given you* Then follows a Clause in these Terms *it were to be desired that these who stood out till the Dyet was Elapsed might be made Examples for their Folly, and that these should not have the same Terms or better then these who in time did obey, and these Rebels Estates may be made a perpetual Fond for the Charge of the Garrison. I am not for punishments to endanger a Disgrace to the King's Forces, &c.*

So the whole tenor and strain of these Letters do clear, whatsoever rigour was designed for *Glencoe*, either by the Instructions, or the Master of Stairs Letters, yet all was in the terms of Law, and with reservation to be used by Sir Thomas, and Colonel Hill, according to discretion and Circumstances.